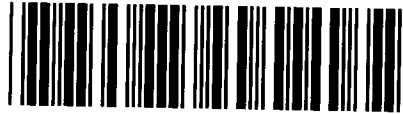




Control Number: 43572



Item Number: 46

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014

FREEMAN & CORBETT, LLP

PHONE (512) 451-6689

8500 Bluffstone Cove, Suite B-104

Austin, Texas 78759

FAX (512) 453-0865

2014 NOV 13 AM 10:57

April 21, 2006 PUBLIC UTILITY COMMISSION
FILING CLERK*Via Facsimile & U.S. Mail*

Ms. Cassandra J. Church
 Presiding Administrative Law Judge
 State Office of Administrative Hearings
 P.O. Box 13025
 Austin, Texas 78711-3025

Re: SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0664-UCR; In Re
 Application of Bexar Metropolitan Water District to Amend Water CCN No. 10675
 in Bexar County

Dear Ms. Church:

This letter is sent in response to Mr. Robert Wilson's letter of April 19, 2006, concerning the referenced matter. I assure your honor I and my client are "on the same page." As Mr. Gene Powell, CEO of Bitterblue, Inc., testified to before Your Honor in the hearing where Bitterblue was granted intervenor status in this proceeding, Bitterblue and its affiliated entities often act as a "fee" developer under various agreements with landowners. Mr. Powell further advises:

1. As he previously testified before you, Bitterblue acts as a fee developer for the Dym tract (also known as the Borgfeld Partners, Ltd., tract and the tract referenced in Mr. Wilson's April 19, 2006, letter), the Friesenhahn One tract and the Friesenhahn Two tract, but does not own or control any part of those properties. As a fee developer for those three tracts, Bitterblue, or its affiliates, does exactly what the land owner requests that Bitterblue do on those tracts. As a fee developer Bitterblue does not have the authority to select a service provider for water or sewer. That authority on these tracts remains vested in the land owner.
2. As the testimony presented to you shows, the Dym tract is not within the service area which Bitterblue seeks to have excluded from Bexar Met's application as a result of Bitterblue's intervention. Bitterblue did not seek, nor was it granted, intervenor status on the basis of its "fee" developer relationship with the owners of the Dym tract. The maps submitted into evidence and the testimony given before you at the intervention hearing make this clear.
3. The request for service on the Dym tract attached to Mr. Wilson's April 19, 2006, letter was submitted by Borgfeld Partners, Ltd. The request was signed by Randy Dym on behalf of Borgfeld Partners, Ltd. Bitterblue's only connection to this request is that Mr. Laddie Denton, operating as President of Bitterblue Inc., doing business as Denton Properties, the fee developer for Borgfeld Partners, Ltd., forwarded the request for service to Mr. Mike

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 tcorbett@freemanandcorbett.com

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Albach of Bexar Met. A copy of the letter signed by Mr. Dym on behalf of Borgfeld Partners, Ltd., the actual landowner of the Dym tract, is included in the package of material submitted to you by Mr. Wilson.

4. The areas controlled and/or owned by Bitterblue, Inc., and for which Bitterblue sought and was granted, intervenor status in this proceeding remain exactly the same as presented in our maps and exhibits to you. Mr. Powell testified that Bitterblue was seeking intervenor status only for the following properties: Friesenhahn One, Friesenhahn Two, Bass Residential Tracts, Bass Commercial tracts and Kinder Tracts. These are identified in the September 8, 2005 letter attached to Bitterblue's letter to you of September 13, 2005. A copy of those two letters is attached hereto for your convenience. These tracts do not include the Dym tract (also known as the Borgfeld Partners, Ltd., tract).
5. The memorandum from Laddie Denton of Denton Communities (a Bitterblue affiliate) attached to Mr. Wilson's April 19, 2006 letter does also discuss the possibility of Bexar Met serving the Friesenhahn One and the Friesenhahn Two tracts at the request of Centex Homes, a potential purchaser of those two tracts, but makes no formal request for service on those tracts. As previously indicated in paragraph one above, as the fee developer for the owners of the Friesenhahn One (Longover Partnership) and Friesenhahn Two (Anton B. Friesenhahn and Marjorie Friesenhahn) tracts, Bitterblue does exactly what those landowners want. Those landowners are negotiating with Centex Homes to sell these two tracts to Centex Homes. Due to the delay in the SOAH hearing, Centex asked Bitterblue to determine whether service could be expedited from Bexar Met to these properties should Centex acquire the properties. Bitterblue has complied with Centex's request to explore service from Bexar Met on these two tracts since Bitterblue is serving as a fee developer on these tracts. However, the owners of the Friesenhahn One and Friesenhahn Two tracts have not foreclosed the option of obtaining service from SAWS for their tracts should Centex not acquire them. And, in fact, Judge Steel's ruling may make the possibility of obtaining service for those two tracts moot since they are outside of Bexar Met's boundaries. Accordingly, Bitterblue continues to represent, as an intervenor in this case, the owners of the Friesenhahn One and Friesenhahn Two tracts. A potential buyer of these two tracts, Centex, is exploring service from Bexar Met for these two tracts should Centex acquire them.
6. Bitterblue has obtained, signed and recorded a Utility Service Agreement (USA) from SAWS for 4,053 connections required on the other land owned or controlled by Bitterblue Inc., and encompassed in Bitterblue's motion to intervene. The tracts included in the USA with SAWS, and totaling 988 acres, are the Bass Residential tract, the Bass Commercial tract and the Kinder tract as identified in Bitterblue's motion to intervene. Design and engineering for sewer and water lines to obtain service from SAWS for the Bass Residential, Bass Commercial and Kinder tracts pursuant to the USA are currently ongoing. The Dym, Friesenhahn One and Friesenhahn Two tracts are not included in the USA with SAWS; however, the owners of the Friesenhahn One and Friesenhahn Two tracts may (or may not)

April 21, 2006

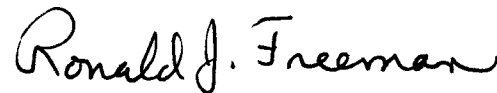
Page 3

seek service from SAWS depending on the timing and cost of getting service from SAWS and the effect of Judge Steel's ruling as to Bexar Met's inability to serve outside its boundaries.

In sum, Bitterblue did not seek intervenor status for the Dym Property (which is the same tract as that referenced in Mr. Wilson's letter of April 19, 2006, as the property owned by Borgfeld Partners, Ltd.). Bitterblue's affiliate, Denton Communities, who signed the letter attached to Mr. Wilson's April 19, 2006, letter, works as a "fee" developer for the Borgfeld Partners, Ltd., concerning the Dym tract but that has nothing to do with Bitterblue's other properties described above which Bitterblue has moved to dismiss from Bexar Met's application.

Bitterblue, Inc., will consult with Mr. Wilson and the other parties pursuant to your Order No. 18, but will continue to pursue its summary disposition motion to remove the properties for which Bitterblue was granted intervenor status because it is uncontested that those properties are not within Bexar Met's boundaries and, therefore, pursuant Judge Steel's ruling, cannot be served legally by Bexar Met.

Very truly yours,



Ronald J. Freeman

cc: All Parties of Record per Attached Certificate of Service

PHONE (512) 451-6689

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September 13, 2005

Via Facsimile & U.S. Mail

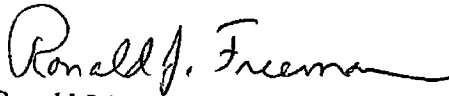
Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, Mail Code 105
Austin, Texas 78711-3087

RE: Application of Bexar Metropolitan Water District to Amend Water CCN No. 10675 in Bexar
County, TCEQ Docket No. 2003-0664-UCR, SOAH Docket No. 582-03-3725

Dear Ms. Castañuela:

Enclosed for filing in the above referenced cause please find the Bitterblue, Inc., et al's
Supplement to Motion to Intervene and For Dismissal by Summary Disposition. Because this
motion is being served on you by fax, the original will be forwarded to you by mail as required by
TCEQ's rules.

Very truly yours,


Ronald J. Freeman

RJF/gmm

CC: Gene Powell
Service List

Ronald J. Freeman
rfreeman@freemanandcorbett.com

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SOAH DOCKET NO. 582-03-3725
TCEQ DOCKET NO. 2003-0664-UCR

IN RE: APPLICATION OF
BEXAR METROPOLITAN
WATER DISTRICT TO AMEND
WATER CCN NO 10675
IN BEXAR COUNTY

§
§
§
§
§

BEFORE THE
STATE OFFICE OF
ADMINISTRATIVE HEARINGS

Supplement to Motion to Intervene and For Dismissal by Summary Disposition

Comes now, Bitterblue, Inc. ("Bitterblue") acting on behalf of itself and on behalf of the entities listed on **Exhibit A** hereto (the "Limited Partnerships") (collectively, Bitterblue, Inc., and the Limited Partnerships are hereafter referred to collectively as the "Movants") and files this its Motion to Intervene and for Dismissal by Summary Disposition in the referenced Docket involving an application (the "Application") for a certificate of convenience and necessity filed by Bexar Metropolitan Water District ("BMWD"), and would respectfully show as follows:

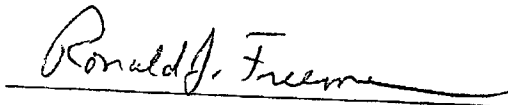
I.

Bitterblue, Inc. ("Bitterblue") heretofore filed its Motion to Intervene and For Dismissal by Summary Disposition (the "Motion") in the above-referenced cause. The Motion seeks to have Bitterblue, acting on behalf of itself and on behalf of the partnerships and landowners Bitterblue acts on behalf of, admitted as parties in the referenced Docket. Counsel for Bexar Metropolitan Water District has asked Bitterblue to specify more accurately the landowners on whose Bitterblue acts. Accordingly, Bitterly sent the letter attached as Exhibit A hereto to BMWD's attorney specifying those landowners. The purpose of this supplement to the Motion is to further clarify that Bitterblue seeks to intervene on behalf of itself and said landowners.

Wherefore, premises considered, Movants again respectfully request that they be admitted as parties to this case, and that after due consideration of this Motion in accordance with the TCEQ's rules, BMWD's application be dismissed, or, in the alternative, that BMWD be instructed to amend the Application to exclude the Properties from its Proposed Service Area.

Respectfully submitted,

Freeman & Corbett, L.L.P.
Attorneys for Movants



By: Ronald J. Freeman
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Fax (512) 453-0865

CERTIFICATE OF SERVICE

I hereby certify that on this the 21st day of April, 2006, a true and correct copy of the foregoing letter was served on the parties of record by facsimile transmission and First Class Mail.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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Texas Commission on Environmental Quality
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OFFICE OF PUBLIC INTEREST COUNSEL
OF THE TEXAS COMMISSION ON
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BEXAR METROPOLITAN WATER
DISTRICT

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Weston Centre, Suite 900
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WATER SERVICES, INC.

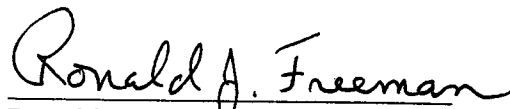
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Ronald J. Freeman